Supreme Court, U.S.
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Docket No._____

In the Supreme Court of the United States

MOMOLU V. S. SIRLEAF, SR. & HIS WIFE ELOUISE A. SIRLEAF,

Petitioner,

v.

BOOZER ET AL, AND MAINUDDIN JANGI

Respondents.

On Petition for Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED FOR REVIEW

1. Whether the Fourth Circuit and District Court of Md., erred constitutionally, when the former sanctioned the contravention of over 30 decisions of this Court, and the Court of Appeals of Md. in order to circumvent **(i)** the threshold questions of one Respondent's lack of standing, and competence; and **(ii)** the default judgment against the real Respondents.

2. Whether the district court has the power to develop rules that circumvent or conflict with the: (i) U. S. Const., (ii) Fed. Statutes, and (iii) Fed. R. of Civ. P., to coerce Petitioner to file an amended complaint.

3. Whether this Court should resolve the conflict between the Fourth Circuit, and the Fifth, Eighth & Tenth Circuits, as well as this Court, on the question of disqualifying a district judge, under 28 U. S. C. A. § 455 (a) & (b) (1).

LIST OF ALL PARTIES TO THE PROCEEDING

Petitioner: Momolu V. S. Sirleaf, and his wife Elouise A. Sirleaf. **Representing Petitioner:** Momolu V. S. Sirleaf, Sr., Pro Se; 2819 Gatehouse Drive; Baltimore, Md. 21207; tel. (410) 448-5218.

Respondents: - (Boozer et al - **real parties in interest**) - F. Vernon Boozer, Edward C. Covahey, Jr., Thomas P. Dore, Roger J. Sullivan, - (Attorneys, Substituted Trustees and Agents) - Donna Hild (Legal asst. & Agent), Covahey & Boozer, First Trust National Association, Citicorp Mortgage, Inc. (Nevada), Citicorp Mortgage, Inc. (Mo.), CitiMortgage, Inc., Citibank & Citigroûp Inc., and Wells Fargo Home Mortgage, Inc.- (Principals); **Counsel of Record** Douglas W. Biser, Mudd Harrison & Birch, 105 W. Chesapeake Ave., Suite 300, Towson, Md. 21204; tel. (410) 828-1042).

Respondent: Mainuddin Jangi; **Counsel of Record:** Jamison Glenn White; Miles & Stockbridge PC; 10 Light St.; Baltimore, Md. 21202; tel. (410) 727-6464).

RULE 29.6 STATEMENT

Petitioner Momolu V. S. Sirleaf, Sr. & his wife Elouise A. Sirleaf, are a private party.

TABLE OF CONTENTS

Page

QUESTIONS PRESENTED i

LIST OF ALL PARTIES TO THE PROCEEDING.....ii

RULE 29.6 STATEMENT.....iii

TABLE OF AUTHORITIES..... v

OPINIONS AND ORDERS BELOW.....1

JURISDICTION.....2

CONSTITUTIONAL PROVISIONS INVOLVED.....2

STATUTES, GUIDELINES, AND
RULES INVOLVED.....2

STATEMENT OF THE CASE.....3

JURISDICTION IN THE U. S. DISTRICT
COURT FOR MARYLAND.....10

REASONS FOR GRANTING THE PETITION.....10

ARGUMENT.....11

CONCLUSION.....30

APPENDICES (A - O) ....1a - 2o

TABLE OF CITED AUTHORITIES

Cases: **Page**

Adickes v. S. H. Kress & Co.,
398 U. S. 144, (06/01/70) 4, 23

Amos v. Prom, Inc., 115 F. Supp. 127 16

Bachrach v. Washington United Coop.,
181 Md. 315, 29 A.2d 822 (1943).. 6

Baird v. Rose (9/22/1933, No. 98-2064) 15

Baker v. Carr, 369 U. S. 186, 204 (03/26/62) 12, 15

Bell v. Hood, 327 U. S. 678 (04/01/46) 15

Berman v. U. S., 350 U. S. 530 (06/22/64) 13

Buchanan v. Consolidated Stores Corp.,
125 F.Supp.2d 730, 734 (D.Md. 2001) 11

Castro v. United States, No. 02-6683 (12/15/03).....18

Caterpillar Inc., et al v. Williams et al
482 U. S. 386 (06/09/87) 29

Charlene Leatherman, et. al., v.
Tarrant County Narcotics Intelligence and
Coordination Unit, et. al., 507 U. S. 163 23

Charles Carlisle, Petitioner v. U. S.
517 U. S. 416 (04/29/96). 13, 26

Conley v. Gibson, 355 U. S. 41, 45 - 46,
78 S.Ct. 99, 102 (1957) 22

Cronin v. Adams, 192 U. S. 108 (01/04/1904) 12

Croyle v. Croyle, 184 Md. 126 (1944) 11

Curtis v. Loether et al, 415 U. S. 189 (02/20/74) 29

Dennis v. Sparks, 449 U. S. 24 (12/17/80) 4, 23

Edward Soldal et. Ux., Petitioners v. Cook County,
Illinois et al. 506 U. S. 26, ...4, 23

Ellerin v. Fairfax Savings, 337 Md. 216, 228;
652 A.2d 1117 (1995); etc. 7

Hall v. Small Business Administration,
695 F.2d 175, 176 (5th Cir.1983) 29

John A. Liljeberg, Jr. Petitioner v. Health Services
Acquisition Corp., 486 US 847, (06/17/88) 30

John S. Lytle, Petitioner, v. Household
Manufacturing, Inc. 494 U. S. 545, 03/20/90) 29

Kontrick v. Ryan, No. 02-819 (01/14/04) 14

Kuschell v. Hotel Playa, 202 F. Supp. 204; 16

Larry Grant Lonchar, Petitioner v. Albert G. Thomas, Warden 517 US 314, (04/01/96) 26

Leonard Rollon Crawford-El, Petitioner v. Patricia Britton - 523 U. S. 946, 993 (1998) 23

Limeco, Inc., Plaintiff, v. The Division of Lime, et al, 571 F. Supp. 710 (07/25/83) 29

McGowan v. Maryland, 366 U. S. 420, 429 - 430 (05/29/61) 12

McIver v. Russell, 264 F. Supp. 22 (1967) 6

Shakur Muhammad, aka John E. Mease, v. Mark Close - (02-9065, Per Curiam, 02/25/04 17

Newsweek Inc., Petitioner v. Florida Department of Revenue et al. (522 US 442) 24

Pacific Mutual Life Insurance Co. v. Haslip et al, 499 U. S. 1 (03/04/91) 7

The Nat'l. Park Bank of N. Y. v. Thomas M. Lanaham, et al , 60 Md. 477, 477-478 (06/21/1883) 5

The United States v. The Libellants And Claimants of the Schooner Amistad, ... 40 U. S. 518 5

TXO Production Corp. v. Alliance Resources Corp., et al, 509 U. S. 443 (06/25/93), etc. 7

United States of America, v. Ritter, 540 F.2d 459 (10 Cir. 07/14/76) 30

United States of America, Plaintiff, v. Mark Lewis Singer, et al, 575 F. Supp. 63 (09/27/83) 29

United States v. Poludniak, 657 F.2d 948, 954 (8th Cir. 1981), cert. denied, 455 U. S. 940, (1982) 29

United States v. Smith et al, 331 U. S. 469 (06/02/47) 21

U. S. v. Price, 383 U. S. 787 (03/28/66) 4, 23

Warth v. Seldin, 422 U. S. 490 (06/25/75) 12

Webb v. McGhie Land Title Co., 549 F.2d 1358, 1361 (10 Cir. 1977) 30

Williams v. U. S., 341 U.S. 97 (04/23/51) 4, 23

Wyatt v. Penn R. Co., 154 F. Supp. 143 16

U. S. CONSTITUTION

Article 1, §8, no. 9 .....2, 24

Article 1, §8, no. 18 .....2, 24

Article 1, §9, no. 3 .....2, 24, 27

Article VI 2, 24, 27

Amendment V 2, 6, 24, 27

Amendment VII 2, 29

Amendment XIV 2, 6, 24, 27

CONSTITUTION OF MARYLAND

Article 2 of the Declaration of Rights 2, 6

Article 19 of the Declaration of Rights 2, 6

Article 24 of the Declaration of Rights 2, 6

FEDERAL STATUTES

18 U. S. C. A § 3 .....2, 21

18 U. S. C. A § 4 .....2, 21

18 U.S.C.A. § 241 7

18 U.S.C.A. § 242 7

18 U.S.C.A. § 351 .....2, 28

18 U.S.C.A. § 1621 7

18 U.S.C.A. § 1622 7

18 U.S.C.A. § 1623 7

28 U.S.C.A. § 453.....2, 21, 27

28 U.S.C.A § 455 (a) 2, 10, 21, 28

28 U.S.C.A § 455 (b)(1) 2, 10, 21, 28

28 U.S.C.A § 1331 10

28 U.S.C.A § 1332 10

28 U.S.C.A § 1343 10

28 U.S.C.A § 1367 10

28 U. S. C. A. §2071(a) 2, 24, 25

28 U. S. C. A. §2071(b) 2, 24, 25

28 U. S. C. A. §2072 .....2, 24, 25

28 U. S. C. A §2073 .....2, 24, 25

28 U. S. C. A §2074 .....2, 24, 25

42 U.S.C.A. § 1981 .....2, 6

42 U.S.C.A. § 1982 .....2, 6

42 U.S.C.A §1983 .....2, 6, 17, 23

42 U.S.C.A. § 1985 (3) 2, 6, 23

42 U.S.C.A. § 1988. .....2, 6

MISCELLANEOUS

25 C. J. S. § 122 .....2, 16

25 C. J. S. § 123(4) 2, 7

MARYLAND STATUTES

Art. 27, § 44 7

Art. 27, §195 7

Art. 27, §198 7

Art. 27, § 435 7

Art. 27, § 437 7

§ 5-203 .....2, 5

§ 6-103 .....2, 5

§7-105 (4).....2, 5

§14-305 (c) 2

FEDERAL RULES OF CIVIL PROCEDURE

Rule 4(a).....3, 9

Rule 5 3

Rule 5(d) 3

Rule 5(e).....3, 8, 14

Rule 6 .....3, 8

Rule 7(a).....3, 8, 14

Rule 7(b) (1).....8

Rule 8 (a).....3, 6, 7, 22, 23, 29

Rule 8(b).....3, 8, 14

Rule 8(c).....3, 8, 14

Rule 8(d) 3, 8, 9, 12, 13,14

Rule 9 (b) 3, 7, 22

Rule 12(a) (1)(A) 3, 8, 14

Rule 12(a) (2) (b) 3, 8, 14

Rule 12(b) 3, 9, 12, 13

Rule 12(b)(6) 3, 9, 12, 13, 14,15, 18, 19

Rule 12 (e) 3, 18 19

Rule 12 (f) 3, 13, 14, 18, 19

Rule 12 (h) (2) 3, 11

Rule 15 .....3, 15, 24, 28

Rule 17 (b) 3, 9

Rule 18 .....3, 7, 22

Rule 18 (b) 7

Rule 19 .....3, 6

Rule 38 .....3, 29

Rule 41 (b) 3, 28

Rule 54 (b) 3, 27

Rule 54 (c), ...3, 9

Rule 55 (a) 3, 9

Rule 55 (b) (2) 3, 9

Rule 56(e) 3, 9, 12, 14

Rule 60 (b) (1) 3, 30

Rule 60 (b) (3) 3, 30

Rule 60 (b) (4) 3, 30

Rule 60 (b) (6) 3, 30

FRAP 10 (b) (2) 3, 21

FRAP 10 (c) 3, 21

RULES OF PROFESSIONAL CONDUCT

Rule 3.3 ..... 3, 7

Rule 3.4 .....3, 7

Rule 3.5 ..... 3, 7

Rule 4.1 .....3, 7

Rule 4.4 .....3, 7

Rule 5.1 .....3, 7

Rule 5.2 .....3, 7

Rule 5.3 .....3, 7

Rule 8.4 .....3, 7

PETITION FOR A WRIT OF CERTIORARI

Petitioner respectfully petitions for a writ of certiorari to the U. S. Court of Appeals for the Fourth Circuit.

OPINIONS BELOW

The Fourth Circuit's unpublished opinions: (i) affirming the district court's dismissal of Petitioner's case (**App. A**); (ii) dismissing first appeal (**App. B**); (iii) denying Motion For Rehearing (**App. C**); (iv) refusing to stay the mandate (**App. D**); (v) dismissing Judicial Complaint (**App. E**); and (vi) substituting Wells Fargo for Norwest Mortgage (**App F**); **the district court's orders:** (i) to effect service of process, and Summons (**App. G**); (ii) denying motions for Summary Judgment, and granting Respondents motions, along with memorandum (**App. H**); (iii) denying Motion To Reconsider (**App. I**); (iv) for Plaintiff to show cause (**App. J**); (v) returning Response to Order to Show Cause (**App. K**); (vi) denying motions for default judgment, and judgment for failure to state a legal defense to a claim (**App. L**); and (vii) Judge Legg's Order (i) refusing to recuse himself, and (ii) dismissing

the case (**App. M**); **District Court's Orders (after dismissing the case):** (i) disapproving Petitioners statements of his unsupported findings and conclusions (**App N**); and (ii) refusing to let the record disclose his misdeeds (**App. O**).

JURISDICTION

The judgment of the Court of Appeals was entered on 02/24/04. Petitioner invokes this Court's jurisdiction under 28 U.S.C.A. §1254 (1).

U. S. CONSTITUTIONAL PROVISIONS

Article 1, §8, no. 9; Article 1, §8, no. 18; Article 1, §9, no. 3; Article VI; Amendments V, VII & XIV - (See Text in App., P). Also, **CONSTITUTION OF MARYLAND**: Articles 2, 19 & 24 of the Declaration of Rights; **STATUTES, GUIDELINES, AND RULES INVOLVED**: 18 U. S. C. A §§ 3 & 4; 28 U.S.C.A. §§ 453, 455 (a), & (b)(1), 2071(a), 2071(b), 2072, 2073, & 2074; 42 U.S.C.A. §§ 1981, 1982, 1983, 1985, and 1988; also, 25 C. J. S. §§ 122, & 123(4); **Maryland Statutes**: §§ 5-203, 6-103, 7-105 (4), 14-305 (c); **FEDERAL RULES OF CIVIL**

PROCEED. - 4(a), 5(d)5(e) 6, 7(a), & (b) (1), 8 (a), (b), (c) & (d), 9 (b), 12(a) (1)(A) & (2) (b), 12(b), 12(b)(6), 12 (e), 12 (f), 12 (h) (2), 15, 17 (b), 18, 38, 41 (b), 54 (b) & (c), 55 (a) & (b) (2), 56(e) & 60 (b) (1), (3), (4), (6); FRAP 10 (b) (2) & (c); RPC 3.3, 3.4, 3.5, 4.1, 4.4, 5.1, 5.1, 5.2, 5.3 & 8.4.

STATEMENT OF THE CASE

1(a). Petitioner filed their "Complaint & Demand for Jury Trial" on 12/11/01; Judge Legg approved it, and issued a civil Order (App. G); and the clerk issued a summons and a form for a Magistrate to exercise civil jurisdiction. The complaint alleged that, after resisting the Substituted Trustees attempt to extort bogus attorneys' fees, they, in violation of the U. S. const. and laws: (a) conspired with the clerk[1], sheriff[2], etc., of the

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[1] In addition to her normal duties, Md. §14-305 (c) imposes a mandatory duty on her in this ex parte system, which would have made it impossible for the Respondents to succeed in their nefarious scheme without her participation.

[2] He and his men forcibly ejected Petitioners by throwing their

Cir. Court, Montgomery County, Md.); (b) fraudulently (i) corrupted judicial power[3], (ii) abused the ex parte system of Md. (iii) foreclosed on, and (iv) wrongfully evicted them; and (c) illegally, and unconstitutionally[4] deprived them of (i) equal rights, (ii) due process, (iii) property, and (iv) civil rights.

1(b). Also, to unconstitutionally take Petitioner's fee simple property, - (**12514 Seurat Lane, North Potomac, Maryland 20878**) - they filed: (a) a false Purchaser's Affidavit; (b) a false "Report of Sale"; and (c) a fraudulent ad: (i) by a totally different firm - (**Law offices Miller, Miller & Canby**); (ii) for a totally different property, - ("**8025 Damascus Road, Gaithersburg, Md. 20882**... "); (iii) for a totally different

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things outside.

[3]*U. S. v. Price, 383 U. S. 787 (03/28/66); Adickes v. S. H. Kress & Co., 398 U. S. 144, (06/01/70); Dennis v. Sparks,* 449 U. S. 24 (12/17/80);

[4]*Williams v. U. S., 341 U.S. 97 (04/23/51); Edward Soldal et. Ux., Petitioners v. Cook County, Illinois et al, 506 U. S. 56 (12/8/92)*

case, - **(Civil No. 180309)**, instead of plaintiff's case - **(Civil No 174580)**; and (iv) involving totally different parties - **(Ruth W. Davis v. Martin P. Cope and Mary E. Cope)**. Hence, they never acquired any legal title to Petitioner's property, because "Fraud vitiates everything ..." - *(The National Park Bank of New York v. Thomas M. Lanaham, Trustee. Frederick W. Brune v. Same, 60 Md. 477, 477-478 (06/21/1883)*; and this Court held:

> **"... public documents ... accompanying property ... are always opened to be impugned for fraud; whether ... in the original obtaining ..., or in the subsequent fraudulent ... use of them, ... and an asserted title to property, founded upon it, is utterly void."**[5]

2. Thus, under Md. law, § 5-203, any applicable statute of limitations - (such as § 7-105 (4) or § 6-103 which, respectively, authorizes Petitioner to bring an action for

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[5]*The United States, v. The Libellants And Claimants Of The Schooner Amistad, ... 40 U. S. 518(Jan., 1841) Supreme Court.*

wrongful foreclosure within 3 years, or for the recovery of their fee simple property within 7 years) - would begin to run from 08/11/99 (when Petitioner discovered the fraud); and this determination is a matter of federal law - *McIver v. Russell, 264 F. Supp. 22 (1967)*; also, in *Bachrach v. Washington United Coop., 181 Md. 315, 29 A.2d 822 (1943)*, the court held that res adjudicata is inapplicable where there is fraud.

3. Also, consistent with Fed. R. of Civ. P. 8 (a), and 18, Petitioner claimed damages only against the real parties in interest, - (because Jangi:[6] (i) is not a Substituted Trustee or principal; and (ii) entered the picture in 11/99, after they had injured Petitioner) - **on the following 14 grounds**: violations of: (a) Amendts. V & XIV of the U. S. Const.; (b) Arts. 2, 19 & 24 of the Declaration of Rights, Md. Const.; (c) 42 U.S.C.A. §§ (i) 1981, (ii) 1982 (iii) 1983 (iv) 1985 (3) and (v) 1988; (d)

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[6]He was only joined as a defendant, pursuant to Fed. R. of Civ. P. 19, because he was occupying Petitioner's property.

fraud; (e) intentional torts - (i) abuse of Process, (ii) abuse of Md.'s ex parte system, and wrongful (iii) foreclosure, & (iv) eviction.

4. Consistent with Fed. R. of Civ. P. 9 (b), 25 C. J. S. § 123(4), numerous decisions[7] of this Court, and Md. law[8]: - (for the Jury to award special, compensatory and punitive damages, etc.) - (A) Petitioner stated that the above conduct of the Substituted Trustees and their Legal Asst. also violated (i) Fed. Criminal law – (18 U. S. C. A. §§ 241, 242, 1621, 1622, and 1623); (ii) Md. Crim. law - (Art. 27 §§ 44, 195, 198, 435, & 437); and (iii) the RPC - (3.3, 3.4, 3.5, 4.1, 4.4, 5.1, 5.1, 5.2, 5.3 & 8.4).

5. Finally, consistent with Fed. R. of Civ. P. 18(b), and 8

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[7] *Pacific Mutual Life Insurance Co. v. Haslip et al, 499 U. S. 1 (03/04/91); TXO Production Corp. v. Alliance Resources Corp., et al, 509 U. S. 443 (06/25/93), etc.*

[8] *Ellerin v. Fairfax Savings, 337 Md. 216, 228; 652 A.2d 1117 (1995); etc.*

(a), "... **The relief demanded in the complaint ...**" consists of plaintiff's prayer, to: (1) "set aside the fraudulent conveyance of Plaintiffs' property by the defendants Substituted Trustees, through their Legal Assistant Donna Hild to their Principal ..." and (2) order " (them and their principals - **see real parties in interest, p. ii of this petition**) - to pay plaintiffs": (i) "General Damages" (ii) "Special Damages" (iii) "Compensatory Damages" & (iv) "punitive Damages "

6. The Summons and Complaint were mailed on 12/21/01; the deadline for filing an answer expired on 1/14/02; Respondents Boozer et al disobeyed the summons and Fed R. Civ. P. 5(e), 6, 7(a), 8(b), (c) & (d), 12(a) (1)(A) & (2) (b), - and did not file any answer. Respondent Jangi filed a defective[9] motion to dismiss; Petitioner filed an opposition and cross motion for summary judgment, stating that Jangi lacked: (i)

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[9] It violated Fed. R. of Civ. P. 7-(b) (1), because it was based on Petitioner's so-called failure to state a case against themselves.

standing to answer the allegations against the real parties in interest; (ii) competence to file a 12 (b) (6) motion; (iii) legal capacity, Fed. R. Civ. P. 17 (b); and (iv) qualification required by Fed. R. Civ. P. 56(e); he admitted the averments, - (Fed. R. of Civ. P. 8(d) & 12(b)) - and did not file the "Defense Required" by Fed. R. of Civ. P. 56(e).

7. Consequently, the law - (the Summons; and Fed. R. Civ. P. 4(a), 54 (c), 55 (a) & (b) (2)) - required Judge Legg to: (i) grant Petitioner default judgment against Respondents Boozer et al, whether or not Petitioner demanded it; and (ii) refer their admissions of criminal and unethical wrongdoings to the appropriate authorities; also, (iii) to dismiss Jangi's motion; instead, he made the district court a partial tribunal, in which Respondents' attorneys routinely perjured themselves with impunity, while he remained remiss; and he has erroneously refused to enter the judgments for Petitioner, despite requests, directly to him (Apps. L &

M) and the 4th Circuit, for the past 25 months.

THE BASIS FOR FEDERAL JURISDICTION IN THE DISTRICT COURT OF MARYLAND

(1) 28 U.S.C.A §§ 1331, 1332, 1343 & 1367 – respectively, Federal Question; Diversity of Citizenship; Civil rights; and Supplemental jurisdiction

REASONS FOR GRANTING THE PETITION

Certiorari is warranted because the Fourth Circuit has: **(I)** sanctioned the District Court of Maryland's departure from the accepted and usual course of judicial proceedings, and it requires an exercise of this Court's supervisory power to remedy it; also, both courts have: **(II)** decided the questions of standing and liability for fraud in a way that conflicts with the decisions of the Court of Appeals of Md., and this Court; **(III)** decided important federal questions in a way that conflicts with relevant decisions of this Court; and **(IV)** entered a decision in conflict with the decisions of the 5th, 8th & 10th Circuits, as well as this Court, concerning the necessity for disqualification of a

federal judge pursuant to U.S.C.A 28 § 455 (a) & (b)(1).

ARGUMENT

I. The district court jettisoned the doctrine of stare decisis and wantonly contravened thirty decisions of this Court, in order to circumvent the questions of: (i) default judgment against Respondents Boozer et al; and (ii) Respondent Jangi's lack of standing; thus, the issues of summary judgment and amended complaint do not even arise.

I(a). Like Charles Croyle's 2nd wife Ann, in *Croyle v. Croyle, 184 Md. 126 (1944)*, & ERC, the 2nd plaintiff in *Buchanan v. Consolidated Stores Corp., 125 F.Supp.2d 730, 734 (D.Md. 2001)* Respondent Jangi lacks standing; yet, Judge Legg stubbornly refused to obey the law; thus Petitioner filed a Fed. R. of Civ. P. 12 (h) (2) motion for Jangi's failure to defend the claim that he lacked standing and competence; again, he failed to defend; but Judge Legg erroneously ruled (App. L) that the motion was moot, although it can be raised even at the

trial on the merits; and this Court has held **that standing is a threshold question which federal courts are required to consider, because: "it involves both constitutional limitations on federal-court jurisdiction, and prudential limitations on its exercise ...".** *Warth v. Seldin, 422 U. S. 490 (06/25/75); Cronin v. Adams, 192 U. S. 108 (01/04/1904); McGowan v. Maryland, 366 U. S. 420, 429 - 430 (05/29/61); Baker v. Carr, 369 U. S. 186, 204.*

II(a). Two days after the deadline Respondents Boozer et al filed[10] an untimely 12(b) (6) motion; Petitioner, once again, repeated all the averments of their complaint in their (i) opposition and (ii) cross motion for summary judgment; and, once again, they admitted them, - (Fed. R. of Civ. P. 8(d) & 12(b)), - and chose not to file the "Defense Required" - (Fed. R. of Civ. P. 56(e).

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[10]**"On January 16, 2002, Defendants (Boozer et al) also filed a motion to dismiss" - see novel rule, par. III ©, pp. 19-20, & Judge Legg's Memorandum of 6/14/02, App. H, infra, par. 1, p. 5h).**

Thus, they: (a) never filed an answer, although Petitioner's complaint (i) gave them fair notice of the type of relief they are requesting; and (ii) proved several sets of facts, (which they could not deny); (b) are estopped from denying their admissions; (c failed to file their 12(b)(6) motion within 20 days; (d) hence, it (i) was not legally before the court, and (ii) was moot; so, (e) the district court lacked authority to consider it - *Berman v. U. S., 350 U. S. 530 (06/22/64); Charles Carlisle, Petitioner v. U. S. 517 U. S. 416 (04/29/96).*

II(b). However, Judge Legg continued to delay; so, on 04/22/02, Petitioner reminded him to enter an appropriate order; on 05/06/02, contrary to Fed. R. of Civ. P. 8(d), & 12(b), Respondent Jangi used this reminder as a **ruse to file an untimely opposition** to Petitioner's cross motions for summary judgment (filed, respectively, four and three months earlier; so, that very day, Petitioner filed a Fed. R. of Civ. P. 12 (f) motion to strike it. Similarly, on 5/13/02, Respondents

Boozer et al **used the identical ruse, to untimely file an untimely opposition** to Petitioner's cross motion for summary judgment (filed four months earlier); so, the next day (05/14/02), Petitioner filed a Fed. R. of Civ. P. 12 (f) motion to strike it.

II(c). Also, unwittingly, both untimely "oppositions" reiterated the identical legal strategy, they had adopted - **(not to file the defenses required by Fed. R. of Civ. P. 5(e), 7(a), 8(b), (c) & (d), 12(a) (1)(A) & (2) (b), & 56 (e);** they said it was "...**purely discretionary ...**"); but **"A defense or objection that is not raised by motion or in the responsive pleading is waived unless it is protected ... by the successful invocation ... of Rule 15"** - this Court, in *Kontrick v. Ryan, No. 02-819 (01/14/04)*, quoted 5A C. Wright & A. Miller, Fed. Practice and Procedure sec. 1347, p. 184 (2d. ed. 1990).

II(d). So, they decided to coerce Petitioner into filing an **unnecessary amended complaint**; however, their

dilemma was, Jangi's, 12(b)(6) motion could not cure his legal deficiencies; nor could it be used on behalf of others. Moreover, in reversing the district court of Virginia, the Fourth Circuit held: **"a motion under rule 12 (b)(6) ... is not a procedure for resolving a contest about the facts or the merits of the case ..."**[11] *Baird v. Rose (9/22/1933, No. 98-2064)*; and this Court has held: **"For it is well settled that the failure to state a proper cause of action calls for a judgment on the merits ..."** *Bell v. Hood, 327 U. S. 678 (04/01/46); Baker v. Carr, 369 U. S. 186) 03/26/62).*

II(e). Nevertheless, Judge Legg falsely declared - (see his 6/14/02 order, App. H) - that Petitioner's: (A) reminder of 4/22/02 for him to enter an appropriate judgment; and (B) motions to strike - ((i) filed on 05/06/02, the same day Jangi filed his untimely opposition and (ii) filed on 5/14/02, the day after

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[11] Quoting 5A Charles Allen Wright & Arthur R. Miller, Federal Practice & Procedure § 1356 (2ed. 1990).

Boozer et al filed their untimely opposition) - were "moot", although: (i) he had not made any decision concerning these matters; (ii) Respondents never made these affirmative defenses; and (iii) his wrongful order was issued, respectively, 53, 39 & 31 days later.

II(g). Then, he irrationally claimed that the civil remedies Petitioner is praying for are criminal remedies; or, is it possible that he truly erred[12], because he does not realize that **fraud and intentional torts usually constitute acts which are also punishable as crimes**[13] ? - (see *Amos v. Prom, Inc. 115 F. Supp. 127; Kuschell v. Hotel Playa, 202 F. Supp. 204; Wyatt v. Penn R.*

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[12] Was the court confused, or was this a wanton act of injustice?

[13] 25 C. J. S. § 122 - "Acts Punishable as Crimes ... the violation of a criminal law, which results in any actual damage to a person, is a sufficient foundation for punitive damages ... The fact that, in a civil action founded on a criminal act, the guilty party has been compelled to pay exemplary damages to the party injured ... will not bar prosecution in a criminal proceeding for the same act. ..."

Co., 154 F. Supp. 143); notwithstanding, he is estopped from contradicting his own order of six months earlier, which verifies the well-pleaded complaint was seeking civil remedies - see App. G of this Petition.

II(h). Also, it is instructive, that this Court in *Shakur Muhammad, a.k.a John E. Mease, Petitioner v. Mark Close - (02-9065, Per Curiam, 02/25/04* - in a U.S.C.A. 42 § 1983 damage action) - reversed the Sixth Circuit which had affirmed summary judgment for Close, and falsely held that Petitioner Muhammad had sought "the expungement of the misconduct charge from the record"; the holding of this Court in that case, is also true in this case as follows:

> **"The decision(s) of the (district court and) Court of Appeals (were) flawed as a matter of fact and as a matter of law. ... The court simply overlooked the (14 grounds, and Prayer of the) complaint that sought no such relief, (as well as it's own civil Order of**

12/17/01, and it's own summons of 12/19/01)".

III(a). Six months had elapsed, and no Respondent had filed a motion for a more definite statement, required by Fed. R. Civ. P. 12 (e)); yet, he falsely stated in his order (App. G) that Petitioner's complaint was "unclear" and "difficult to follow" because it "is forty pages long"; then, he, novelly **recharacterized** Respondents' above-mentioned untimely and defective 12(b) (6) motions as Fed. R. Civ. P. 12 (e) Motions for more Definite Statement. In reversing the Eleventh Circuit, in *Castro v. United States, No. 02-6683 (12/15/03)* - (the recharacterization of a pro se defendant's 28 U. S. C. sec. 2255 claim as a motion for habeas corpus) - **this Court observed that "Federal courts sometimes (do this) in order to: (i) help pro se litigants; and (ii) "avoid an unnecessary dismissal"**; but Judge Legg twisted this to: (i) **help two law firms; (ii) cover-up the misdeeds of a third; (iii) harm pro se litigants; and (iv) "(facilitate) an unnecessary dismissal".**

III(b). Then, he erroneously applied Fed. R. Civ. P. 12 (f) - "Motion To Strike" - in lieu of his **recharacterized** and non-existing Fed. R. of Civ. P. 12 (e) "Motion For More Definite Statement". In any case, the ground "unclear" is not relevant to Fed. R. of Civ. P. 12 (f); and he had no legal authority to strike Petitioner's pleadings. If Respondents had any difficulty responding, then they should have filed motions pursuant to Fed. R. of Civ. P. 12 (e): (1) before the time for filing their answers expired; (2) pointing out (i) the defects; and (ii) the details desired; (3) then the district court would order Petitioner to fix the defects; and (4) he would only receive authority, upon failure to do so within 10 days; **however, none of these prerequisites occurred. In fact, this is not even apropos to a 12 (b) 6 motion!** However, since the court could not show a lack of (i) subject-matter jurisdiction or (ii) a justiciable cause of action, they adopted this chicanery.

III(c). Furthermore, 23 months after Petitioner had filed and served their complaint, & 17 months after his falsehood (App. H), Respondents Boozer et al, once again, contradicted him, when, in attempting to justify their disobedience of the summons (to the Fourth Cir.), they (a) introduced a novel rule - **("the summons and complaint papers first came into their hands")** - to replace **"Filing with the Court Defined"**[14]; to compute the 20-day period; and (b) falsely said they had filed the "answer", required by the Fed. R. of Civ. P.

III(d). Thus, he and they continued to be snared in their own tangled web; but, they never stated on the record that they had any "difficulty" with the complaint, or that it was "unclear" (App. H), or "unintelligible" (as he falsely claimed for the first time, 21 months after the complaint was filed - App. M). So, how could he know that they were having difficulties? Hence, it is instructive that in his order of 9/12/03 (App. M, infra

[14] See footnote 10 on p. 12 & Judge Legg's memo., par. 1, p. 5h, App H.

p. 4m), dismissing the case, he denies meeting with Respondents privately; **but does not deny his deep-seated favoritism for them; nor his fabrication of evidence on their behalf; nor trying to cover-up their admissions of fraud; so the question arises: "Why would a federal judge do this?" These are among the reasons Petitioner asked him to recuse himself.**

III(e). Although he had already dismissed the case, and no longer had jurisdiction, when Petitioner prepared two statements, pursuant to FRAP 10 (b) (2) & (c), detailing his misdeeds, he ousted the Respondents and became their advocate; then he issued two more orders (Apps. N & O) to ensure the record would not disclose his misdeeds, including, violations of (i) U. S. C. A 18 §§ 3 & 4, and (ii) U.S.C.A 28 §§ 453 (his oath of office) & 455 (a) & (b)(1). That is why, this Court condemned this practice in *United States v. Smith et al, 331 U. S. 469 (06/02/47)*:

> **"... we would be reluctant to hold that the**

court has a continuing power on his own initiative to grant what the defendant has not the right to go into open court and ask. To approve the practice ... would almost certainly subject trial judges to private appeals ... by counsel or friends ... We think that expiration of the time within which relief can openly be asked of the judge, terminates the time within which it can properly be granted on the court's own initiative. ..."

III(f). Additionally, he (see App. H): **(A) falsely implied** that Petitioner didn't comply with Fed. R. of Civ. P. 8(a), because they exceeded the minimum standard, by also complying with Fed. R. of Civ. P. 9 (b) & 18 (see pars. 4 & 5, pp. 7 - 8); **(B) feigned compliance** with this Court's decision in *Conley v. Gibson (355 U. S. 41 (1957), 78 S.Ct. 99)*, while diametrically contravening it; **(C) refused to obey this Court's holding that federal courts:** (i) are prohibited from applying a

"heightened pleading standard" in civil rights actions under U.S.C.A. 42 § 1983; and (ii) must adhere to the requirements of Fed. R. of Civ. P. 8(a) - *Charlene Leatherman, et. al., Petitioners, v. Tarrant County Narcotics Intelligence and Coordination Unit, et. al., 507 U. S. 163, 03/03/93);* and (iii) in a case involving "constitutional tort" a litigant is not required to adduce "clear and convincing" evidence of improper motive to defeat a motion for summary judgment - *Leonard Rollon Crawford-El, Petitioner v. Patricia Britton - 523 U. S. 946, 993 (1998;* and (D) falsely claimed that "42 U.S.C. §§ 1983 and 1985, ... can be asserted only against state actors" (App. M); firstly, he ought to know that this contravenes this Court's decisions in *U. S. v. Price, 383 U. S. 787 (03/28/66); Adickes v. S. H. Kress & Co., 398 U. S. 144, (06/01/70); Dennis v. Sparks,* 449 U. S. 24 (12/17/80); *Williams v. U. S., 341 U.S. 97 (04/23/51); Edward Soldal et. Ux., Petitioners v. Cook County, Illinois et al, 506 U. S. 56 (12/8/92; etc.;* **secondly, all 14 grounds (anyone of which is sufficient - par. 3, pp. 6-7) are**

assertable against private individuals.

III(g). Also, in keeping with the decision of this Court, - *(Newsweek Inc., Petitioner v. Florida Department of Revenue et al. (522 US 442, 39 L.Ed. 2d. 888, 118 S.Ct. 904 (1998))* - Judge Legg is not permitted to "bait and switch", in violation of Amendments V & XIV; yet, he made ex post facto rules; and changed the Fed. R. of Civ. P. - (in violation, respectively, of (i) Article 1, §9, no. 3[15]; (ii) Article 1, §8[16], nos. 9 & 18; and Article VI[17] of the U. S. Const., as well as, (iii) 28 U. S. C. A. §§ 2071, 2072, 2073 & 2074) - on which Petitioner relied when they filed their complaint; his wrongful motive was to coerce them, contrary to Fed. R. of Civ. P. 15, to unjustly change the grounds of their action to one of

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[15]Even congress is prohibited from making ex post facto rules, so Judge Legg is definitely prohibited from making them.

[16]Empowers Congress to constitute tribunals inferior to this Court, and make laws.

[17]Judges must adhere to the U. S. Constitution.

negligence, based on spurious guidelines (**in a so-called "amended complaint", involving no federal question**); it is also instructive that, under Md. law, punitive damages do not arise out of torts based on negligence.

III(h). Also, (i) under §2072, Congress delegated power to this Court to prescribe the Fed. R. of Civ. P; (ii) §2073 outlines the method of prescribing them through a judicial conference and publication; (iii) under §2074, this Court then transmits them to congress for approval, before they become effective; (iv) therefore, no inferior court or Judge can change the Fed. R. of Civ. P.; (v) although lower courts may make local rules under §2071(a), (1) those rules must be consistent with Acts of Congress and the Fed. R. of Civ. P. under §2072; and (2) under §2071(b), such rules can only come into force after giving appropriate public notice that they will take effect upon a specified date.

IV(a). Unfortunately, Judge Legg discarded all the legally-established frameworks; and erected his own ad hoc process, - denounced by this court in *Larry Grant Lonchar, Petitioner v. Albert G. Thomas, Warden 517 US 314, (04/01/96)* - to facilitate his prejudicial advocacy for the Respondents, although this Court has repeatedly admonished that the "inherent power" of federal courts ".. does **not include the power to develop rules that circumvent or conflict with the Federal Rules of (Civil) Procedure**" - *Charles Carlisle, Petitioner v. U. S. 517 U. S. 416, 134 L.Ed. 2d 613, 116 S.Ct. 1460 (04/29/96).*

IV(b). Then, he wrongfully dismissed Petitioner's complaint; and gave them two equally destructive and unjust choices, either of which would facilitate his erroneous dismissal of the case: (1) accept his illogical and legally-indefensible fabrication that a prayer for (i) damages and (ii) cancellation of a fraudulent conveyance, seeks a criminal remedy; or (2) refuse to

unwittingly participate in the destruction of their own interests. Thus, he violated Art. VI, & Petitioner's rights under the U. S. Const. (including Art. 1, §9, no. 3, and Amendts. V & XIV), and they were "powerless to avert the mischief of his **(collateral)** order". However, the Fourth Circuit erroneously (i) relied only on Fed. R. of Civ. P. 54 (b) and (ii) dismissed Petitioner's appeal[18] for lack of jurisdiction, **although the district court had wrongfully: (a) dismissed Petitioner's complaint and (c) granted summary judgment to all the Respondents; thereby** adjudicating not "**fewer**" but "**all the claims or the rights and liabilities of all the parties**"; and, 7 months later, this is precisely what Judge Legg said - ("**therefore, there is no complaint**"); see App. L, p. 21 of his wrongful order and ultimatum.

IV(c). Thus, after 19 months of futilely trying to persuade Judge Legg to abandon his biased conduct, and respect his oath - (28 U.S.C.A. § 453), Petitioner

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[18] Appendices B, C & D.

filed (i) a Judicial Complaint[19], pursuant to 28 U.S.C. A § 351, and (ii) a motion for recusal, pursuant to U.S.C.A 28 § 455 (a) & (b)(1); he retaliated by illegally, & erroneously dismissing Petitioner's case with prejudice for failure to file an amended complaint; and the Fourth Circuit erroneously relied only on Fed. R. of Civ. P. 41 (b) and affirmed, despite their statement: **"A judge's rulings in a case are subject to review through the usual appellate processes"** - see footnote 18, pp. 27-28.

IV(d). A judge's authority is a derivative of the law; under Fed. R. of Civ. P 15, Petitioner's request is a prerequisite to the phrase "by leave of court", without which Judge Legg had no lawful authority to: (i) order

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[19] The 4th Cir. erroneously construed the complaint as an objection to his rulings, and erroneously concluded: "**A judge's rulings in a case are subject to review through the usual appellate processes,** not through the judicial complaint procedures." - (App. E., p. 2e). However Petitioner decided not to appeal, in order to concentrate on the main case.

Petitioners to file an amended complaint; or (ii) dismiss their complaint. In *Caterpillar Inc., et al v. Williams et al 482 U. S. 386 (06/09/87)*, the district court dismissed Petitioners' complaint, after they refused to amend it, as wrongfully ordered; the Ninth Circuit reversed, and this Court affirmed. Also, this dismissal violates Petitioner's right to Jury trial under Amendt. VII of the U. S. Const., and Fed. R. of Civ. P. 38 - *Curtis v. Loether et al, 415 U. S. 189 (02/20/74); John S. Lytle, Petitioner, v. Household Manufacturing, Inc. dba Schwitzer Turbochargers 494 U. S. 545, 108 L. Ed.2d 504, 110 S.Ct. 1331, 03/20/90).*

IV(e). The Fourth Circuit's Per Curiam Order (App. A) conflicts with the decisions of this Court, as well as, the Fifth, Eighth & Tenth Circuits, respectively, - *Limeco, Inc., Plaintiff, v. The Division of Lime, et al, 571 F. Supp. 710 (07/25/83); Hall v. Sm. Bus. Adm., 695 F.2d 175, 176 (5th Cir.1983); U. S. A., Plaintiff, v. Mark Lewis Singer, et al (575 F. Supp. 63 (09/27/83; U. S. v. Poludniak,*

657 F.2d 948, 954 (8th Cir. 1981), cert. denied, 455 U. S. 94 (1982); U. S. A., Petitioner, v. Ritter, ... Respondent 540 F.2d 459 (07/14/76); Webb v. McGhie Land Title Co., 549 F.2d 1358, 1361 (10 Cir. 1977). Petitioner requests that this Court: (a) disqualifies Judge Legg; and (b) vacates the judgments of the Fourth Circuit and the district court, for the reasons (i) aforementioned in this petition; (ii) under Fed. R. of Civ. P. 60 (b) (1), (3), (4) & (6); and (iii) in it's decision in *John A. Liljeberg, Jr. Petitioner v. Health Services Acquisition Corp., 486 US 84.*

CONCLUSION

The Petition for a writ of certiorari should be granted.

Respectfully Submitted

Momolu V. S. Sirleaf, Sr., Pro Se,

Elouise A. Sirleaf

2819 Gatehouse Drive,

Baltimore, Md. 21207

Tel. (410) 448-5218

May, 2004

APPENDIX A

UNPUBLISHED

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

No. 03-2220

Momolu V.S. Sirleaf & His Wife, Elouise A. Sirleaf,

Plaintiff - Appellant

versus

F. Vernon Boozer, Edward C. Covahey, Jr., Thomas P. Dore, Roger J. Sullivan, - (Attorneys, Substituted Trustees and Agents) - Donna Hild (Legal asst. & Agent), Covahey & Boozer, First Trust National Association, Citicorp Mortgage, Inc. (The Lakes, Nevada), Citicorp Mortgage, Inc. (St. Louis, Mo.), CitiMortgage, Inc., Citibank & Citigroup Inc., and Wells Fargo Home Mortgage, Inc.; & Mainuddin Jangi

Defendants - Appellees.

Appeal from the United States D istrict Court for the District of Maryland, at Baltimore. Benson Everett Legg, Chief District Judge. (CA-01-3823-L)

Submitted: February 19, 2004

Decided: February 24, 2004

Before

NIEMEYER, GREGORY, and SHEDD, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Momolu V. S. Sirleaf & his wife Elouise A. Sirleaf, Appellant Pro Se.

Douglas Windsor Biser, MUDD, HARRISON & BURCH, Towson, Md, for Appellees Boozer et al.

Jamison Glen White, MILES & STOCKBRIDGE, Baltimore, Md. for Appellee Jangi.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Momolu V. S. Sirleaf and Elouise A. Sirleaf appeal the district court's order denying their motion to disqualify the judge and dismissing their civil action with prejudice for

failure to comply with the court's order to file an amended complaint. See Fed. R. Civ. P. 41 (b) . Finding no abuse of discretion in the district court's denial of the motion to disqualify or in the dismissal, we affirm on the reasoning of the district court. See Sirleaf v. Boozer, No. CA-01-3823-L (D. Md. Sept. 5, 2003) We deny Appellants, motions to correct the record and to supplement the record. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED

APPENDIX B

JUDGMENT FILED: December 30, 2002

UNITED STATES COURT OF APPEALS

for the Fourth Circuit

NO. 02-2109 CA-01-3823-L

Momolu V.S. Sirleaf & His Wife, Elouise A. Sirleaf,

Plaintiff - Appellant

versus

F. Vernon Boozer, Edward C. Covahey, Jr., Thomas P. Dore, Roger J. Sullivan, - (Attorneys, Substituted Trustees and Agents) - Donna Hild (Legal asst. & Agent), Covahey & Boozer, First Trust National Association, Citicorp Mortgage, Inc. (The Lakes, Nevada), Citicorp Mortgage, Inc. (St. Louis, Mo.), CitiMortgage, Inc., Citibank & Citigroup Inc., and Norwest Mortgage, Inc.; & Mainuddin Jangi

Defendants - Appellees.

Appeal from the United States District Court for the District of Maryland, at Baltimore. Benson Everett Legg, Chief District Judge. (CA-01-3823-L)

Submitted: December 19, 2002;

Decided: December 30, 2002

Before: WILKINS AND KING, Circuit Judges, and HAMILTON*, Senior Circuit Judge

Dismissed by unpublished per curiam opinion

Momolu V. S. Sirleaf & his wife Elouise A. Sirleaf, Appellant Pro Se.

Douglas Windsor Biser, MUDD, HARRISON & BURCH, Towson, Md, for Appellees Boozer et al. Robert Scott Brennen, MILES & STOCKBRIDGE, Baltimore, Md. for Appellee Jangi.

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*Senior Judge Hamilton did not participate in consideration of this case. The Opinion is filed by a quorum of the panel pursuant to 28 U. S. C. § 46 (d).

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Momolu V.S. and Elouise A, Sirleaf seek to appeal the district court's order denying reconsideration of an order striking their complaint and directing that they file an amended complaint within ten days. This court may exercise jurisdiction only over final orders, 28 U.S.C. §1291 (2000), and certain interlocutory and collateral orders, 28 U.S.C. § 1292 (2000); Fed. R. Civ. P. 54(b); Cohen v. Beneficial Indus.- Loan Corp., 337 U.S. 541 (1949). The order the Sirleafs seek to appeal is neither a final order nor an appealable interlocutory or collateral order, as the district court has yet to enter a final order in their case. Accordingly, we dismiss the appeal for lack of jurisdiction. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

APPENDIX C

JUDGMENT FILED: February 11, 2003

UNITED STATES COURT OF APPEALS

for the Fourth Circuit

NO. 02-2109 CA-01-3823-L

Momolu V.S. Sirleaf & His Wife, Elouise A. Sirleaf,

Plaintiff - Appellant

versus

F. Vernon Boozer, Edward C. Covahey, Jr., Thomas P. Dore, Roger J. Sullivan, - (Attorneys, Substituted Trustees and Agents) - Donna Hild (Legal asst. & Agent), Covahey & Boozer, First Trust National Association, Citicorp Mortgage, Inc. (The Lakes, Nevada), Citicorp Mortgage, Inc. (St. Louis, Mo.), CitiMortgage, Inc., Citibank & Citigroup Inc., and Norwest Mortgage, Inc.; & Mainuddin Jangi

Defendants - Appellees.

On Petition for Rehearing and Rehearing En Banc

The appellants' petition for rehearing and rehearing en banc was submitted to this Court. As no member of this Court or the panel requested a poll on the petition for rehearing en banc, and

As the panel considered the petition for rehearing and is of the opinion that it should be denied,

IT IS ORDERED that the petition for rehearing and rehearing en banc is denied.

For the Court,

/s/ Patricia S. Connor

CLERK

APPENDIX D

FILED: February 24, 2003

UNITED STATES COURT OF APPEALS

for the Fourth Circuit

NO. 02-2109 CA-01-3823-L

Momolu V.S. Sirleaf & His Wife, Elouise A. Sirleaf,

Plaintiff - Appellant

versus

F. Vernon Boozer, Edward C. Covahey, Jr., Thomas P. Dore, Roger J. Sullivan, - (Attorneys, Substituted Trustees and Agents) - Donna Hild (Legal asst. & Agent), Covahey & Boozer, First Trust National Association, Citicorp Mortgage, Inc. (The Lakes, Nevada), Citicorp Mortgage, Inc. (St. Louis, Mo.), CitiMortgage, Inc., Citibank & Citigroup Inc., and Norwest Mortgage, Inc.; & Mainuddin Jangi

Defendants - Appellees.

ORDER

Appellants have filed a motion to stay the mandate pending application to the United States Supieme Court for a writ of certiorari. The Court denies the motion.

For the Court - by Direction

/s/ Patiicia S. Connor

CLERK

APPENDIX E

FILED SEPTEMBER 12, 2003

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

In the Matter of a

Judicial Complaint

Under 28 U.S.C. § 351

MEMORANDUM AND ORDER

This complaint is brought pursuant to 28 U.S.C. § 351(a), which provides an administrative remedy for "conduct prejudicial to the effective and expeditious administration of the business of the courts and for judicial inability to "discharge all the duties of office by reason of mental or physical disability."

Complainant alleges that a district judge improperly failed to grant his motion for entry of default udgment against defendants. Instead, complainant alleges, the judge covered up for the defendants and apparently met with

them. The judge allegedly delayed ruling on complainant's motions, thereby emboldening the defendants to continue to perjure themselves with impunity. Complainant further alleges that the district court delayed mailing an order to show cause until 11 days after the order was entered and erred in returning complainant's response for an original signature when the document already bore an original signature.

The judge's failure to grant complainant's motion for default judgment is not conduct that can be challenged through a judicial complaint. A judge's rulings in a case are subject to review through the usual appellate processes, not through the judicial complaint procedures. *See* 28 U. S. C. § 352 (b) (1) (A) (i i) ; *In re Charge of Judicial Misconduct,* 685 F.2d 1226 (9th Cir. Jud. Council 1982) . Likewise, complainant's objection to the judge's order returning his document for an original signature is not an objection that is properly raised through a misconduct complaint.

A complaint that a judge has taken too long to rule on a matter, although it may be raised through a mandamus petition, is not properly brought through a judicial complaint. *See Rule l(e), Rules of the Judicial Council of the Fourth Circuit Governing Complaints of Judicial Misconduct and Disability.*

Complainant's allegations that the judge ruled as he did, or delayed ruling as he did, in order to cover up for the defendants, and that he must have met with them to develop this strategy, are without factual support. Allegations of illegal motive or improper conduct that are unsupported by any factual assertions are subject to dismissal. See 28 U.S. C. § 352 (b) (1) (A) (iii) ; *Rule 4 (c) (3) Rules of the Judicial Council of the Fourth Circuit Governing Complaints of Judicial Misconduct and Disability; In re Doe,* 2 F.3d 308, 310 (8th Cir. 1993).

Finally, the complainant's objection to delay in mailing of the judge's order is a complaint that relates to clerical, rather than judicial, conduct and is not

properly raised through the judicial complaint procedures. *Rule 1 (c) , Rules of the Judicial Council of the Fourth Circuit Governing Complaints of. Judicial Misconduct and Disability.*

This complaint is, accordingly, dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(i), (ii) & (iii).

IT IS SO ORDERED.

/s/ William W. Wilkins

Chief Judge

APPENDIX F

FILED: February 24, 2003

UNITED STATES COURT OF APPEALS

for the Fourth Circuit

NO. 02-2109 CA-01-3823-L

Momolu V.S. Sirleaf & His Wife, Elouise A. Sirleaf,

Plaintiff - Appellant

versus

F. Vernon Boozer, Edward C. Covahey, Jr., Thomas P. Dore, Roger J. Sullivan, - (Attorneys, Substituted Trustees and Agents) - Donna Hild (Legal asst. & Agent), Covahey & Boozer, First Trust National Association, Citicorp Mortgage, Inc. (The Lakes, Nevada), Citicorp Mortgage, Inc. (St. Louis, Mo.), CitiMortgage, Inc., Citibank & Citigroup Inc., and Norwest Mortgage, Inc.; & Mainuddin Jangi

Defendants - Appellees.

2(f)

ORDER

The Court substitutes Wells Faigo, Incorporated for Norwest Mortgage as a party appellee to this proceeding.

Fox the Court - By Direction

/s/ Patxicia S. Connor

CLERK

APPENDIX G

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MARYLAND

Momolu V.S. Sirleaf, and his wife

Elouise A. Sirleaf

v. Civil Action No. L-01-3823

Boozer et al & Jangi. Defendant

ORDER

On December 11, 2001, the plaintiffs filed the above-captioned complaint, accompanied by the $150.00 filing fee. The plaintiffs therefore bear the responsibility for effecting service of process on the defendants.

Pursuant to Fed. R. Civ. P. 4, plaintiffs may effectuate service by presenting summons to the Clerk of the Court for signature and seal and then serving a copy of the summons and complaint on the defendants.[1]

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[1]Plaintiffs did file summons and a service copy of the

Service of the summons and the complaint may be effected **by any person who is not a party and who is at least 18 years of age.**

Plaintiffs are reminded that under Fed. R. Civ. P. 4(l), the person effecting service of the summons and complaint must promptly notify this Court, through an affidavit, that he or she has served the defendant(s).[2] If

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complaint. Therefore, the Clerk of the Court shall take all necessary steps to prepare and issue summons and to return summons and service copies of the complaint to the plaintiffs.

[2] If there is no record in the court file that service was effected on the defendants, plaintiff risks dismissal of her cause of action. Pursuant to Fed. R. Civ P. 4(m) and Local Rule 103.8.a., if a party demanding affirmative relief has not effected service of process within 120 days of filing the pleading seeking the affirmative relief, the Court may enter an order asking the party to show cause why the claims should not be dismissed. If the party fails to show cause within fourteen (14) days of the entry of the order or such other time as may be set by the Court, the claim shall be dismissed without prejudice.

plaintiffs do not use a private process service, and instead use registered or certified mail to make service, they must file with the Court the United States Post Office acknowledgment as proof of service.

Accordingly, IT IS this 17th day of December, 2001, by this Court hereby ORDERED that:

1. The Clerk of the Court shall TAKE ALL NECESSARY STEPS to prepare and issue summons and to return summons and service copies of the complaint to the plaintiffs;
2. The Clerk of the Court shall MAIL a copy of this Order to the plaintiffs.

/s/ Benson Everett Legg
United States District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

Momolu V.S. Sirleaf, and his wife
Elouise A. Sirleaf

v. Civil Action No. L-01-3823

Boozer et al & Jangi. Defendant

TO THE ABOVE NAMED DEFENDANT: F. Vernon Boozer (Note: a separate summons was prepared for each defendant)

You are hereby summoned and required to serve upon Plaintiff's, whose address is:

2819 Gatehouse Drive

Baltimore, MD 21207

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the date of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

Sincerely,

FELICIA C. CANNON, CLERK

By: /s/ Janet Buker

Deputy Clerk

DATE: December 19, 2001

U.S. District Court (11/1999) - Summons

APPENDIX H

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MARYLAND

FILED JUNE 14, 2002

Momolu V.S. Sirleaf, and his wife

Elouise A. Sirleaf

v. Civil Action No. L-01-3823

Boozer et al & Jangi. Defendant

ORDER

For the reasons stated in the memorandum of even date, the Court hereby orders that:

(i) Defendant Mainuddin Jangi's and Defendant F. Vernon Boozer, et al.'s[3] Motions to Dismiss are GRANTED as regards the first ten counts of Plaintiffs' Complaint

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[3]This motion to dismiss was filed on behalf of F. Vernon Boozer, Edward C. Covahey, Jr., Thomas P. Dore, Roger J. Sullivan, Donna Hild, Covahey & Boozer, P.A., First Trust National Association, Citicorp Mortgage, Inc., Citibank & Citigroup, Inc., and Norwest Mortgage, Inc.

(Counts I A-3F). With respect to the remaining counts, the Motions are recharacterized as Motions to Strike and are GRANTED;

(ii) Plaintiffs' Motion for Entry of Appropriate Order on Plaintiffs' Motion for Judgment on Pleadings is DENIED as moot;

(iii) Plaintiffs' Motion to Strike Motion Response by Mainuddin Jangi is DENIED as moot; and

(iv) Plaintiffs' Motion to Strike Motion Response by F. Vernon Boozer, et al. is DENIED as moot. Plaintiffs shall file an amended complaint by June 28, 2002. The amended complaint shall be no longer than 15 pages in length and shall state each count in a short and plain mariner, clearly identifying the defendant(s) to which each count applies. The Complaint shall address the following questions: (1) Do Plaintiffs deny that their mortgage was in arrears;

(ii) What notices do Plaintiff's allege they were entitled to receive that they failed to receive; and

(iii) What specific procedures and laws do Plaintiffs allege were violated by Defendants?

Plaintiffs may add a count of negligence to their amended complaint. In this count, Plaintiffs must identify a duty of care owed to them by Defendant(s), explain how Defendant(s) breachcd the duty of care, and explain how the breach caused them harm.

Six of the counts alleged by Plaintiffs (Counts 4A, 4B, 5A 6A, 7B and 7C) are actionable only if defendants acted under color of law. Plaintiffs have argued that Defendants acted under color of law because they acted in collaboration with state officials. Plaintiffs' amended complaint should detail the exact nature of the alleged collaboration.

Defendants shall file their answers to Plaintiffs' amended complaint by July 12, 2002. Defendants may renew thcir motions to dismiss by reference if they so

choose.

It is so ORDERED this 14th day of June, 2002.

/s/ Benson Everett Legg

United States District Judge

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MARYLAND

FILED JUNE 14, 2002

Momolu V.S. Sirleaf, and his wife

Elouise A. Sirleaf

v. Civil Action No. L-01-3823

Boozer et al & Jangi. Defendant

MEMORANDUM

On December 11, 2001, *pro se* Plaintiffs Momolu V. S. and Elouise A. Sirleaf filed a complaint alleging twenty-one counts against thirteen different defendants. On January 10, 2002, Defendant Mainuddin Jang filed a motion to dismiss.

On January 16, 2002, Defendants F. Vernon Boozer, Edward C. Covahey, Jr. , Thomas P. Dore,

Roger J. Sullivan, Donna Hild, Covahey & Boozer, P.A., First Trust National Association, Citicorp Mortgage, Inc., Citibank & Citigroup, Inc., and Norwest Mortgage, Inc., also filed a motion to dismiss.

The Court has reviewed Plaintiffs' Complaint. For the reasons stated herein, Defendants' Motions to Dismiss are GRANTED with regards the first ten counts (1A-3F). The Court finds Plaintiffs' Complaint unclear with regards the remaining counts and allegations. Accordingly, Defendants' Motions to Dismiss the remaining counts are recharacterized as Motions to Strike and GRANTED.

Background

Plaintiffs' Complaint arises from the foreclosure and sale of their home, 12514 Seurat Lane, North Potomac, Maryland 20878. The foreclosure was conducted under the private power of sale contained in Plaintiffs' Deed of Trust. The foreclosure sale was ratified by the Circuit

Court for Montgomery County, Maryland. The foreclosure proceeding was affirmed by the Court of Special Appeals of Maryland.

The Complaint alleges twenty-one counts against thirteen different defendants, including the lawyers who executed the foreclosure and sale, their legal assistant, the banks involved, the mortgage company involved, and the subsequent purchaser of the home, Mainuddin Jangi. The Complaint is forty pages in length. Boiled down to its essence, the Complaint alleges that Defendants' fraudulently executed the foreclosure and sale of Plaintiffs' home in violation of state and federal criminal laws, federal civil rights statutes, the United States Constitution, and the Declaration of Rights of the Maryland Constitution.

Standard of Review

Ordinarily, a Complaint should not be dismissed for failure to state a claim under Federal Rule of Civil Procedure 12(b)(6) unless it appears beyond all doubt

that the plaintiff can prove no set of facts in support of its claim, which entitle it to relief. See Conley v. Gibson, 355 U. S. 41, 45-46 (1957); Labram v. Havel, 43 F.3d 918, 920 (4th Cir. 1995). The liberal pleading requirements of Rule 8(a) demand only a "short and plain" statement of the claim. In evaluating such a claim, the Court must accept as true all well-pleaded allegations of fact and view them in the light most favorable to the plaintiff See Jenkins v. McKeithen, 395 U.S. 411, 421-22 (1969). In essence, the legal theory articulated, or even suggested, by the non-moving party must be one that could not be the basis for a ruling in that party's favor.

Analysis

The first ten counts of Plaintiffs' Complaint (Counts1A-3F) allege that Defendants violated federal and State of Maryland criminal law by fraudulently executing the foreclosure and sale of Plaintiffs' home.[4]

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[4]The first ten counts of the Complaint allege that the foreclosure and sale

Violations of criminal law do not give rise to private causes of action where the criminal laws in question are enacted for "the general benefit of the public at large." Staley v. Americorp Credit Corp., 164 F.Supp. 2d 578, 580 (D.Md. 2001).[5] The criminal statutes identified in the first ten counts of the Complaint fall into this

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was executed in violation of federal and State of Maryland criminal statutes regarding perjury, subornation of perjury, false declarations before a grand jury or court, contradictory statements, forged instruments, false advertisements, advertisements as part of a scheme not to sell at advertised price, and failure to comply with terms of trust applicable to personal property.

[5] Plaintiffs argue in their Opposition that the first ten counts of their Complaint sound in negligence. On the face of the Complaint, however, the first ten counts appear to allege violations of criminal law, and Defendants responded to them as such. This confusion exemplifies the failure of Plaintiffs to state their allegations in a clear and concise manner. Although the Court is dismissing the first ten counts, Plaintiffs will be allowed to add a claim of negligence in their amended complaint.

category. Accordingly, the first ten counts of the Complaint (Counts- 1A-3F) are dismissed.

The function of a complaint is to give the defendant fair notice of the plaintiff's claim and the grounds upon which the plaintiff relies. The instant Complaint, however, is forty pages long and often difficult to follow. Plaintiffs' failure to state their allegations in a clear and concise manner raises problems both for the Defendants in their attempts to respond to the Complaint, and for the Court in its attempt to analyze the Complaint. Accordingly, Defendants' Motions to Dismiss the remaining counts are recharacterized as Motions to Strike and GRANTED.

It is so ORDERED this 14th day of June, 2002.

Benson Everett Legg

United States District Judge

APPENDIX I

FILED SEPARATELY SHEET

Filed Sep. 12, 2002, At Baltimore - Clerk U. S. District Court, District of Maryland - By: Deputy

Civil Docket No. L-01-3823

Criminal Docket No.

FILED SEPARATELY

Answer

Answer and attachment(s)

Attachment(s)

- ❒ Exhibit(s)
- ❒ Motion:
- ❒ Sealed
- ❒ Transcript of Proceedings before the Court on
- ❒ Transcript of Proceedings before SSA
- ❒ Deposition of taken on
- ❒ Other

MARGINAL ORDER **N0 28**

For Pleading No. 28 - See Pleading No. 23

APPENDIX J

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MARYLAND

Momolu V.S. Sirleaf, and his wife

Elouise A. Sirleaf

v. Civil Action No. L-01-3823

Boozer et al & Jangi. Defendants

ORDER TO SHOW CAUSE

On June 14,2002, the Court dismissed in part and struck in part Plaintiffs' Complaint. The Court ordered Plaintiffs to file an amended complaint by June 28, 2002. On June 24th, Plaintiffs filed a motion to reconsider, which was denied on September 12th. On September 20th, Plaintiffs filed an interlocutory appeal with the United States Court of Appeal for the Fourth Circuit, which was dismissed for lack of jurisdiction on February 14, 2003. Plaintiffs, however, have yet to file an amended complaint.

The Court intends to dismiss this action for failure to file an amended complaint. If Plaintiffs wish to object, they are ordered to show, by Friday, June 27th, good cause as to why the Court should not dismiss the case.

It is so ORDERED this 13th day of June, 2003.

APPENDIX K

UNITED STATES DISTRICT COURT

OFFICE OF THE CLERK

DISTRICT OF MARYLAND

Felicia C. Cannon, clerk Reply to Northern Division

July 3, 2003

Momolu V.S. Sirleaf

2819 Gatchouse Drive

Baltimore, MD 21207

Re: Case No. L-01-3823

Dear Counsel/Party:

The Clerk received your Response to Order to Show Cause on June 27, 2003 ; however, it is deficient in the area(s) checked below and is being returned to you. .....

Miscellaneous:

(x) Pleading does not contain original signature(s)

/s/ Benson E. Legg,

Chief United States District Judge

cc: Other counsel/party U.S. District Court

(Rev. 3/3/2003) - Return pleading letter

APPENDIX L

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MARYLAND

Momolu V.S. Sirleaf, and his wife

Elouise A. Sirleaf -

v. Civil Action No. L-01-3823

Boozer et al & Jangi. Defendants

ORDER

On June 14, 2002, the Court dismissed in part and struck in part Plaintiffs' Complaint. The Court ordered Plaintiffs to file an amended complaint by June 28, 2002. On June 24th, Plaintiffs filed a motion to reconsider, which was denied on September 12th. On September 20th, Plaintiffs filed an interlocutory appeal with the United States Court of Appeals for the Fourth Circuit, which dismissed the appeal for lack of jurisdiction on February 14, 2003. On February 24th, Plaintiffs filed a motion for default judgment and a

motion for judgment for failure to state a legal defense to a claim. On March 7th, Defendants filed a motion to dismiss.

On June 13th, the Court issued an Order to Show Cause directing the plaintiffs to explain why they had failed to file an amended complaint. Plaintiffs' response stated that they were waiting for the Court to rule on their outstanding motions.

As stated, the Court has dismissed in part and struck in part the only complaint ever filed in this action; therefore, there is no complaint upon which Plaintiffs' or Defendants' motions can be based. Accordingly, the Court hereby:

(i) DENIES as MOOT Plaintiffs' motion for default judgment and motion for judgment for failure to state a legal defense;

(ii) DENIES as MOOT Defendants' motion to dismiss; and

(iii) DIRECTS Plaintiffs to file an amended complaint on or before Monday, August 4th.

If no amended complaint is received, the case will be dismissed.

It is so ORDERED this 22nd day of July, 2003.

/s/ Benson Everett Legg

Chief Judge

APPENDIX M

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MARYLAND

Momolu V.S. Sirleaf, and his wife

Elouise A. Sirleaf

v. Civil Action No. L-01-3823

Boozer et al & Jangi. Defendants

ORDER

Now before the Court is Plaintiffs' Motion to disqualify Judge Benson Legg, or in the alternative, for him to recuse himself. A brief history of the case is in order.

1. **Background**

On December 11, *2001, pro se* Plaintiffs Momolu V.S. Sirleaf and Elouise A. Sirleaf filed a complaint against ten defendants. The forty-page, twenty-one-count complaint violated Federal Rule of Civil Procedure 8(a), which requires that a pleading contain a short and

plain statement of the claim. The largely unintelligible complaint advanced theories of recovery under statutes such as 42 U.S.C. §§ 1983 and 1985, which can be asserted only against state actors, whereas Defendants in this action are all private individuals or companies. Plaintiffs' failure to state their allegations in a clear and concise manner raised problems both for the Defendants in attempting to respond to the complaint, and for the Court in attempting to analyze the complaint. Accordingly, on June 14, 2002, the Court dismissed the first ten counts of the complaint and struck the remaining counts. The Court gave Plaintiffs until July 12th to file an amended complaint. Instead of filing an amended complaint, Plaintiffs filed a motion to reconsider on June 24th, which the Court denied on September 12th. On September 20th, Plaintiffs filed an appeal with the United States Court of Appeals for the Fourth Circuit, which was dismissed for lack of jurisdiction on February 14, 2003. On February 24th, Plaintiffs filed a motion for default

judgment and a motion for judgment for failure to state a legal defense to a claim. On March 7th, Defendants filed a motion to dismiss. These motions were improper as there was no complaint on file.

On June 13th, the Court issued an Order to Show Cause directing the plaintiffs to explain why they had failed to file an amended complaint. Plaintiffs' response stated that they were waiting for the Court to rule on their outstanding motions. Accordingly, on July 22nd, the Court denied all motions as moot because there was no complaint upon which Plaintiffs' or Defendants' motions could be based. Also on July 22nd, the Court instructed Plaintiffs that if they did not file an amended complaint by August 4th, the case would be dismissed. On August 4th, Plaintiffs filed the instant motion to disqualify the Court or for the Court to recuse itself

II Analysis

In 28 U.S.C. § 455(a), Congress provided that any

"justice, judge, or magistrate of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned." Section 455(b)(l) further states that a judge shall disqualify himself when he has personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding. When determining a judge's own impartiality, a judge should employ an objective standard. That is, a judge should recuse himself or herself whenever a reasonable person, with knowledge of all facts of the case, would question the judge's impartiality. See Liljeberg v. Health Servs. Acquisition Corp., 486 U.S. 847, 860 (1988).

In their motion, Plaintiffs allege that the only way the Court could have known that the Defendants would be confused by the complaint was by meeting with them privately. The Court, however, has had no *exparte* communication with the Defendants concerning this case, nor does it have any personal knowledge of the facts underlying his case.

Plaintiffs remaining allegations (e.g., that the Court is confused) involve Plaintiffs dissatisfaction with the Court's legal rulings and do not constitute grounds for recusal. A Plaintiff, when faced with an order of the court, may do one of three things: (i) he may comply with the order lawfully; (ii) he may attempt to persuade the presiding judge that the ruling was in error; or (iii) he may appeal the ruling. He may not, however, seek to disqualify the presiding judge.

Accordingly, the Court finds no objective reason to recuse or disqualify itself

III. **Conclusion**

For the above stated reasons, the Court hereby:

(i) DENIES Plaintiffs' Motion (A) to Disqualify Judge Benson Legg, or (B) For Him to Recuse Himself;

(ii) as no amended complaint was received by August 4, 2003, DISMISSES the case with prejudice; and

(iii) DIRECTS the CLERK to CLOSE the CASE.

It is so ORDERED this 3rd day of September, 2003.

/s/ Benson Everett Legg

Chief Judge

In

APPENDIX N

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MARYLAND

Momolu V.S. Sirleaf, and his wife

Elouise A. Sirleaf

v. Civil Action No. L-01-3823

Boozer et al & Jangi. Defendants

ORDER

On September 3, 2003, the Court dismissed this case with prejudice due to Plaintiff Momolu Sirleaf's and Plaintiff's Elouise Sirleaf's (collectively "Sirleafs") failure to file an amended complaint. On September 29, 2003, the Sirleafs filed a notice of appeal. The Sirleafs soon thereafter filed the following two documents: (i) "Part I Statement of Unsupported Finding or Conclusion Regarding Defendants Boozer Et Al" [Docket No. 54]; and (ii) "Part II Statement of Unsupported Finding or Conclusion Regarding Defendant Jangi" [Docket No. 55]. These two

documents purport to be filed under Federal Rule of Appellate Procedure 10(c).[6]

Federal Rule of Appellate Procedure 10(c) provides as follows:

> If the transcript of a hearing or trial is unavailable, the appellant may prepare a statement of the evidence or proceedings from the best available means, including the appellant's recollection. The statement must be served on the appellee, who may serve objections or proposed amendments within 10 days after being served. The statement and any objections or proposed amendments must then be submitted to the district court for settlement and approval. As settled and approved, the statement

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[6]The Sirleafs also filed a "Statement of the Issues" (Docket No,. 56]. This document does not purport to be filed under Rule 10(c). Accordingly, the Court does not address it.

must be included by the district clerk in the record on appeal.

Fed. R. App. P. I 0(c).

Rule 10(c) applies when a transcript of a hearing or trial is unavailable. Under the Rule, the district court must settle or approve any summaries of the evidence or proceedings provided by the parties.

The Court hereby DISAPPROVES the Sirleafs' submissions under Rule 10(c). As an initial matter, the proceedings in this Court were conducted solely on the papers. The Court dismissed the Sirleafs' case due to their failure to file an amended complaint. I held no in-court or telephonic hearing, nor was there a trial. Accordingly, Rule 10(c) is inapplicable.

Moreover, the Sirleafs' submissions could hardly qualify as a Rule 10(c) statement. The Sirleafs' two filings (totaling approximately 65 pages) present a collage of complaints, accusations, and excerpts from the papers filed in the District Court. It is evident that the Sirleafs spent a great deal of time and effort on

these submissions, but they simply do not qualify as statements under Rule 10(c). Accordingly, the Court hereby DISAPPROVES the Sirleafs' proposed Rule 10(c) statements [Docket Nos. 54 and 55]. The proposed statements shall not be made a part of the record on appeal.

Several of the defendants[7] have moved to strike Sirleafs' proposed Rule 10(c) statements. It is unclear from their motion whether they ask the Court to remove the Sirleafs' statements from this Court's files (or simply ask the Court to disapprove the proposed statements). The language of Rule 10(c) does not address this issue. Accordingly, if Defendants seek relief in addition to this Court's disapproval of

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[7]Defendants F. Vernon Boozer, Edward C. Covahey, Jr., Thomas P. Dore, Roger J. Sullivan, Donna Hild, Covahey & Boozer, P.A., First Trust National Association, Citicorp Mortgage, Inc., CitiMortgage, Inc., Citibank & Citigroup, Inc., and Norwest Mortgage, Inc. have moved to strike Plaintiffs' Rule 10 statement.

Plaintiffs' statements, they shall, within two weeks from the date of this Order, file additional briefing on whether the disapproved Rule 10(c) statements should be struck from this Court's records. If Defendants do not file additional briefing on this issue, the Court will dismiss Defendants' motion as withdrawn.

It is so ORDERED this 19th day of December, 2003.

/s/ Benson Everett Legg

Chief Judge

APPENDIX O

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MARYLAND

Momolu V.S. Sirleaf, and his wife

Elouise A. Sirleaf

v. Civil Action No. L-01-3823

Boozer et al & Jangi. Defendants

ORDER

On September 3, 2003, the Court dismissed this case with prejudice due to Plaintiff Momolu Sirleaf s and Plaintiff Elouise Sirleaf s (collectively "Sirleafs") failure to file an amended complaint. On September 29, 2003, the Sirleafs filed a notice of appeal. The Sirleafs soon thereafter filed the following two documents: (i) "Part I Statement of Unsupported Finding or Conclusion Regarding Defendants Boozer Et Al" [Docket No. 54]; and (ii) "Part II Statement of Unsupported Finding or Conclusion Regarding Defendant Jangi" [Docket No. 55]. These two documents purported to be filed under Federal Rule of

Appellate Procedure I 0(c). On December 12, 2003, this Court disapproved the Sirleafs' statements under Rule 10(c). On December 29, 2003, the Sirleafs filed the pending motion "to ensure that 'the record truly discloses what occurred in the district court.'"[8] [Docket No. 5 8]. The Court construes this as a motion to reconsider.

The Court hereby DENIES the Sirleafs' motion. As explained in the December 12th Order, the proceedings in this Court were conducted solely on the papers, with no hearing or trial. The Sirleafs have not explained in any coherent way why the Court should reconsider its December 12th ruling. Accordingly, the motion is DENIED.

It is so ORDERED this 3rd day of February, 2004.

/s/ Benson E. Legg

Chief Judge

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[8] Although the motion contains quotation marks, it is not clear what the Sirleafs are quoting.